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SUBJECT: MAY 2005 MEETING OF THE WTO TRADE NEGOTIATIONS COMMITTEE

#### SUMMARY

**11.** The 19 May 2005 meeting of the WTO Trade Negotiations Committee lasted only one-half day, with most Members either restating well-known positions or refraining from intervening altogether (including the United States, Japan, European Communities and Brazil). The limited engagement was primarily due to the short time period since the last TNC meeting, which was held on 28 April 2005, with only trade facilitation and rules (regional trade agreements) negotiating groups having met during the intervening period. While the meeting was brief, the tone was more upbeat than the April meeting, reflecting Members' relief that agreement had been reached, at the Paris mini-ministerial meeting, on the ad valorem equivalents (AVE) "gateway" issue for agricultural market access negotiations. Many Members also welcomed that substantive discussion had begun on certain "agreement-specific" special and differential treatment proposals within the Committee on Trade and Development Special Session. The Services Council Special Session Chairman made a downbeat assessment of the state of his group's negotiations, noting that 39 developing countries and 31 least-developed countries still had not made initial market access offers (now two years overdue). Notwithstanding the general lack of progress in services, several Members expressed appreciation to Canada for making the initial revised services market access offer. Switzerland and several developing countries emphasized the need to maintain a transparent and inclusive process leading up to the July and beyond.

**12.** There were many comments on the likely form of the "first approximation" for the July 2005 General Council meeting. There seems to be a general acceptance that the Chairman will issue a report that takes stock of progress in the negotiations in all areas, but also identifies significant gaps that will need to be overcome to serve as a "roadmap" for the negotiations leading up to the December 2005 Hong Kong Ministerial Conference. Members also seem to appreciate the need for greater specificity, at this point, in some negotiating areas, notably agriculture and non-agricultural market access (NAMA), than in others. The TNC Chairman provided an oral status report on "implementation-related" issues, pursuant to Article 12 of the Doha Declaration, noting some positive signs, but continuing divergences of views. He urged Members to "redouble" their efforts on these items. He will report further on the items at the July 2005 General Council meeting. The Chairman ended the meeting without scheduling a date for the next TNC meeting, preferring to use informal meetings and consultations to generate momentum through inter-linkages across all negotiating areas. End Summary.

#### Chairman's Report on the Status of Doha Negotiations

**13.** TNC Chairman Supachai's introductory comments were generally upbeat, noting that the situation had brightened since the April meeting as a result of renewed impetus received from ministers. With only 30 working days remaining until the July 2005 meeting of the General Council, it is important to coordinate work in Geneva with ministerial gatherings taking place elsewhere. Supachai does not envisage a package of decisions to be taken at the July meeting, as was done in 2004, but there is a need to provide ministers a clear picture of where to focus work in order to make Hong Kong a success. The substantive basis for the July report will need to be developed within the negotiating groups, but it is already evident that there will be different levels of specificity for various areas of the negotiations.

**14.** Supachai briefly summarized his perceptions of the developments in the principal negotiating areas. Beginning with agriculture, the agreement on ad valorem equivalents was seen as a positive sign, although further technical work, notably in verification, is required in order to enter into the hard work of developing a market access methodology. Supachai is hopeful that the agreement on AVEs will lead to a "knock on" effect in other negotiating areas, particularly in NAMA. While there are five formula proposals for NAMA, the divergences are considerable. Supachai noted satisfaction that the Committee on Trade and Development (CTD) Special Session is now discussing substance, rather than process, with respect to agreement-specific special and differential (S & D) treatment proposals. Supachai's assessment of the status of the services negotiations was downbeat, particularly critical of the Members that have not yet submitted initial offers, now two years overdue. Supachai will

write a second, stronger letter to ministers of Members that have not yet submitted their initial market access offers. Supachai recognized that good progress was being made in the trade facilitation negotiations, with quite a number of new proposals, including many from developing countries. He noted that the Rules Group had met earlier the same week to discuss regional trade agreements and will meet end May to discuss other areas. Supachai observed that while there has been good engagement in Rules, "concrete progress is needed as soon as possible."

#### "Implementation-Related Issues"

15. In his capacity as WTO Director General, Supachai reported on the consultative process for "implementation-related" issues. He recalled that the consultations were taking place in two tracks, one track for extension of geographic indications (GI), and another track for all other proposals pursuant to paragraph 12 of the Doha Declaration. Supachai summarized the status of the non-GI items, as groups: relationship between TRIPS and Convention on Biodiversity (CBD); transfer of technology; balance of payments (with a focus on the tiret 3 review); services (where some Barbados will provide greater precision to St. Lucia's proposal on redistributing negotiating rights); TRIMS tiret 40; customs valuation agreement (CVA) proposals; safeguards (where the proponent has reserved possibility to return to the discussion in the future); and TBT. Supachai described progress overall as modest, but he is hopeful that some substantive results are possible, without specifically identifying which items he had in mind. He did indicate that for several items, including CVA, safeguards and TBT, there does not appear to be any clear way forward, and, in the case of TRIMS, that a political decision would be required. For GI extensions, the Secretariat has prepared a compilation of views on the relevant technical issues, but it is clear that differing views remain on the desirability of extending GI protection. He intends to propose, at the next General Council meeting, that the process be continued on both tracks, with a report to be made at the July 2005 General Council meeting.

#### Reports from Negotiating Group Chairs

16. The Council for Trade in Services Special Session Chairman reported that only one new initial offer, from Brunei, had been submitted since his last report, bringing the total number of initial offers to 53 (with the EC counted as one). Seventy Members, 39 developing countries and 31 least-developed countries, still need to submit initial offers. He recalled the May 2005 deadline for submitting revised offers and noted the recent receipt of the first such offer from Canada. At the next services meeting, the Chairman intends for the Group to assess the number and quality of offers, consider the development of analytical tools, consult on special and differential treatment, and further work on modalities for least-developed countries.

17. The NAMA Chairman said work at the meeting to be held during the week of 6 June 2005 will focus on unbound tariffs and AVEs, in light of developments in the agriculture negotiations. There will also be a brainstorming session on non-tariff barriers. There have been five proposals on the formula approach, but there is no sign yet of possible convergences. The NAMA Chairman encouraged Members to intensify consultations among themselves, because the June meeting is the last scheduled NAMA meeting before the July General Council.

18. The Committee on Trade and the Environment Special Session Chairman reported progress efforts to develop, by the Hong Kong Ministerial, a list of environmental goods for tariff reduction or elimination pursuant to paragraph 31(iii) of the Doha Declaration. The Secretariat has prepared a compilation of environmental goods drawn from five proposed lists of goods. The Chairman called for a more broad-based participation in the discussions and encouraged developing country Members, in particular, to submit proposals for product lists. The next meeting of the CTE Special Session is scheduled for 7-8 July, but the Chairman is prepared to convene a special meeting in June, if new proposed lists are received. The Chairman noted that gaps need to be narrowed with respect to the subparagraphs 31 (i) and (ii) (relating to multilateral environmental agreement elements) of the Doha mandate.

19. The Dispute Settlement Body Special Session Chairman said there had been a single meeting since the April meeting of the TNC, but he "did not want to overstate progress, since there had not been much convergence." He expects the July result in this area to be a report on the discussions thus far and an indication of what the group hopes to accomplish for Hong Kong. However, he does not expect to achieve agreement on the elements of the Hong Kong result by July. While the Chairman recognizes the need to move to a text-based discussion, he cautioned Members that he cannot be expected to pull a draft out of thin air.

110. The Negotiating Group for Trade Facilitation Chairman said the May 2005 trade facilitation meeting had a constructive atmosphere and a de-politicized discussion. The group had made a notable achievement in framing issues and there are now 32 proposals for modalities, with roughly two-thirds of such

proposals coming from developing countries. The Chairman observed that all the proposals aim to simplify and reduce import and export procedural requirements, strengthen transparency and due process, and incorporate elements relating to special and differential treatment and capacity building.

11. The Rules Negotiating Group Chairman said there were elements of progress on regional trade agreements. For transparency of goods agreements, there had been a revised note from the Chairman containing points of convergence in notifications, presentation and reviews. The Group also recently analyzed a mock Secretariat-prepared services agreement. For systemic issues, an Australian paper offered some possible solutions relating to "substantially all trade" and an EC paper discussed RTA disciplines and linkages to the Enabling Clause. Several documents have been submitted for the Group's end-May meeting to discuss antidumping and subsidies issues.

12. The CTD Special Session Chairman said the 6 April meeting had been suspended due to different views on the timing of the discussions for agreement-specific proposals and cross-cutting issues. Members will address the LDC agreement-specific proposals as a matter of priority. The work has gotten back on track, as Members are now discussing the substance of the issues, rather than process, and the Chairman hopes to have some recommendations for the July General Council meeting.

#### Statements from Participants

13. Interventions were made by Korea, Mexico, Rwanda (on behalf of the Africa Group), Canada, India, Zambia (on behalf of the LDC Group), Uganda, Hong Kong China, Kenya, Benin (on behalf of the ACP Group), Botswana, Singapore, Indonesia, Switzerland, Malaysia, Thailand, Peru, Bolivia, Chile and Barbados.

14. Agriculture: All the interventions referred positively to the resolution of the ad valorem equivalents "gateway" issue for market agricultural market access negotiations. However, several Members noted a great deal of time had been devoted to this technical issue and little time remained for the real negotiations on the formula, and treatment of special and sensitive products. The ACP Group registered its concern about the treatment of sugar by the AVE agreement and it cautioned against an outcome that would lead to the disappearance of a "system" for agriculture upon which most of its members rely. The African, LDC and ACP Groups made predictable interventions with respect to cotton, sugar and preference erosion. Switzerland identified GI extension as a crucial component of the overall balance in the negotiations. Presumably because of the AVE discussions, Switzerland cautioned against small group discussions, particularly with Chairman or Secretariat participation, that did not allow Members to make their views known on specific issues of particular importance. Korea and the ASEAN countries also made references to the need for inclusiveness and transparency in the negotiating process.

15. Development: Developing countries made predictable calls for progress on the "development dimension" of the Doha Agenda, including attention to the special and differential treatment items (in both the CTD Special Session and within the negotiating groups), "implementation-related" issues, cotton, sugar, preference erosion, and TRIPs and Public Health. India, Bolivia and Barbados requested a "development audit" of the all areas of the negotiation, to get an outline of development outcomes that could be expected at Hong Kong. India and Peru described a solution to the TRIPs and the Convention on Bio-Diversity issue as essential to reaching a balanced result, and requested a clear mandate in July for further work. Canada announced that it had amended its patent, food and drug act to provide a framework for the exportation of low-cost drugs to developing countries.

16. NAMA: Members had little to say about the NAMA negotiations, presumably because there had not been a meeting or other notable developments since the April TNC meeting. Developing countries reiterated calls for "less than full reciprocity," "special and differential treatment," consideration of preference erosion, and duty-free, quota-free access for imports from least-developed countries. Switzerland and Singapore spoke up for maintaining ambition in the discussions, with Hong Kong China adding that Members have been too focused on the pain and not on the benefits to be derived from the negotiations. Switzerland added that the level of ambition for NAMA should not diverge considerably from the level for agriculture. Mexico expressed confidence that a convergence can be obtained by July on the formula, with flexibilities for developing countries.

17. Other Negotiations: There was little said beyond passing references to the services, rules and trade facilitation negotiations. Canada announced that it had submitted the first revised offer for services, and said that it had included improvements for Mode 4, as well as in a number of specific sectors. Canada encouraged other Members to join it in making services offers public, as a means to improve transparency in the negotiating process. On rules, there were no calls, this time, to begin text-based negotiations, although Mexico asked for a

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antidumping proposals. Kenya expressed appreciation for the large number of trade facilitation proposals, but felt that some went beyond the scope of the negotiating mandate. Kenya also sees a need to "operationalize" technical assistance that is to be provided in parallel with the trade facilitation negotiations. The only mention of the dispute settlement understanding negotiations was by Mexico, which described them as a very important element.

#### Concluding Remarks

18. TNC Chairman Supachai concluded the meeting by noting that ministers expect to receive a broad substantive outcome in July that can lead to a successful conference in Hong Kong. Supachai wants to have clear ideas for agriculture in all three pillars. For agricultural market access, Members will need to confront issues of the formula, bands and thresholds, as well as definitions of special and sensitive products. The work in NAMA needs to be reinforced, with a concrete shape for the formula, coefficients, and flexibilities for developing countries. There should be equivalent specificity for agriculture and NAMA, with important divergences in each negotiating area identified. For development, Supachai encouraged redoubled work on the LDC agreement-specific S & D proposals, as well as balance on other development items. Supachai did not announce a date for the next meeting of the TNC, preferring to focus on work in consultations, as a means of making progress in all areas in a balanced manner.

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